

Issue: Failure To Have Motor Fuel Use Tax Decal/Permit

THE DEPARTMENT OF REVENUE)
OF THE STATE OF ILLINOIS)
) DOCKET # XXXXXX
v.) LICENSE # XXXXXX
) NTL # XXXXXX
)
)
Taxpayer) Jerilynn Gorden
) Administrative Law Judge
)

At the hearing, XXXXX testified on behalf of XXXXX. His testimony indicated that on December 1, 1992, XXXXX was issued a written warning by the Illinois Commerce Commission police (T., 6). He indicated that XXXXX told the officer that the Iowa Department of Transportation had informed

him that it was not necessary for him to obtain a license from Illinois when traveling from his farm in Iowa across the river to Fulton, Illinois. He indicated that XXXXX did not believe he needed to obtain a license from Illinois (T., 7). Testimony by XXXXX indicated that he was traveling in Whiteside County, Illinois on December 1, 1992 (T., 8). XXXXX verified that Department Exhibit 4 is a copy of the written warning which was issued to him on December 1, 1992 (T., 9). Testimony provided by XXXXX indicated that although XXXXX was operating a vehicle in Illinois without a license under the Illinois Interstate Motor Fuel Use Tax Program, it did so not knowing that it was required (T.,7). He stressed that they were only operating one mile from the Iowa - Illinois border, and they would have acquired a permit had they known it was required (T.,10). He offered character testimony regarding the defendant XXXXX, and asserted that a \$1,000.00 fine was too harsh for the defendant.

FINDINGS OF FACT I find that on December 1, 1992, XXXXX was found operating a commercial motor vehicle in the State of Illinois, and had not registered and acquired a permit required by the Law.

CONCLUSIONS OF LAW Section 13a.6 of the Law requires an operator of a commercial motor vehicle to register and secure a permit required by Section 13a.4 or 13a.5 of the law before operating in Illinois. Failure to do so results in a minimum of a \$1,000.00 penalty. At hearing, XXXXX admitted that XXXXX had not obtained a permit required by the Law prior to operating in Illinois. It is irrelevant for purposes of Section 13a.6 that the truck was only found operating one mile over the Illinois - Iowa border. If a license has not been obtained, the penalty must be imposed.

It is incumbent upon the taxpayer protesting the Department's assessment to produce competent evidence showing that the Department's assessment is incorrect. No such evidence has been produced in this case. Therefore, I recommend that the Department's assessment be upheld.

Administrative Law Judge

Date